

## CHAPTER 31

### CHECKLISTS

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#### INTERNATIONAL LAW

##### PREPARATION AND PREDEPLOYMENT

- \_\_\_ Determine the legal basis for the military action. Obtain copies of all relevant authorizing documents (i.e., UNSC Resolutions, Executive Orders).
- \_\_\_ Obtain copies of all Status of Forces and Supplementary Agreements, with maps of countries, where deployment is likely; for classified agreements and Country Law Studies, contact higher HQ, the Unified Command (i.e., SOUTHCOM, CENTCOM, etc.), or OTJAG (International/Operational Law Div).
- \_\_\_ Determine if any international agreements need to be negotiated prior to deployment of U.S. Forces.
- \_\_\_ Regularly review operations and contingency plans. Review the actual OPLAN/OPORDER for potential problems. If it has been previously reviewed, look for changes and focus on the mission statement, assumptions, and ROE.
- \_\_\_ Ensure regular and thorough training in the law of war, Rules of Engagement (ROE) (to include STX lane training), and Code of Conduct is provided to commanders and soldiers.
- \_\_\_ Include law of war, ROE, and operational law problems in exercises. See AR 350-41. Submit judge advocate portions of upcoming exercise play on time (and ensure they are keyed to the master scenario plan). The Master Scenario Events Lists (MSELs) are usually the way exercise play is keyed to the master plan and are usually submitted 6 months before the exercise.
- \_\_\_ Determine whether deploying judge advocates will be assisted by Reserve Component support, (e.g., JAGSO Teams) in the area of deployment or Individual Mobilization Augmentees (IMAs) at Home Station. If JAGSO teams are deploying, ensure that this fact is included in the operations order.
- \_\_\_ Determine potential legal problems in the countries of probable deployment (e.g., unique religious laws that would affect U.S. personnel, limitations on the use of military vehicles in country, unique customs or currency laws, and any significant terrorist threats).
- \_\_\_ Consider solving recurring issues such as war trophies, ROE, requisitioning of property, contracting, etc. by working them into SOPs, exercises, etc.
- \_\_\_ Coordinate with the G-5/Civil Affairs office to determine the existence and terms of any Civil Affairs Agreement with the Host Nation (HN).

##### DURING COMBAT DEPLOYMENT

- \_\_\_ Establish contact and become the liaison between the International Committee of the Red Cross (ICRC) and the command. Attempt to determine the identities of the ICRC representatives and whether they have been approved by the State Department prior to their arrival. Once they arrive, identification information concerning the ICRC representatives should be forwarded to the next higher SJA office for verification of authenticity.

- — Coordinate with provost marshal (PM) and logistics personnel to ensure that provisions have been made for EPWs, to include security, housing, food, religious needs, barbed wire, transfer from other U.S. military services or allies, medical attention, interpreters, separate accommodations for females, if any, and reporting to the ICRC.
- — Ensure arrangements have been made to recover the enemy's dead when the combat situation permits. Attempts should be made to identify the bodies. This information should be given to the ICRC. If the situation permits, these bodies should be returned to the enemy. Alternatively, the bodies should be promptly buried in a dignified manner, the graves marked and recorded, and this information provided to the ICRC.
- — Ensure that all combat incidents (e.g., inadvertent bombing of a protected place) and allegations of war crimes (by either side) are promptly reported and investigated. This is a command responsibility. It is absolutely imperative that the evidence be preserved immediately. If necessary, a judge advocate should conduct the preliminary investigation.
- — Coordinate with other U.S. representatives in country, such as the State Department. Be prepared for sustained involvement with representatives from U.S. Agency for International Development (USAID) and State Department, including Embassy personnel.
- — Assure close and continuous coordination with the G-5/Civil Affairs office.
- — Have guidance prepared for the command concerning War Trophies. Guidance on War Trophies must be included in any General Order Number 1. If the potential exists for troops to obtain war trophies, publish guidance rapidly! Advise troops of the law concerning theft of private property (Art. 121, UCMJ) and the retention of enemy public property captured on the battlefield (Art. 103, UCMJ). They should also be briefed concerning the category of items that they may request as souvenirs.
- — Review and coordinate psychological operations and intelligence collection plans/activities.
- — Establish channels for reporting law of war violations and coordinate with the PM to ensure that credible allegations are investigated. Coordinate with the military justice section and/or claims section to employ court reporters and interpreters to record witness testimony or other statements of witnesses in the country of deployment. Be prepared to use SJA office assets to investigate allegations of law of war violations.
- — Ensure that, in accordance with the OPLAN/OPORDER and ROE, protected targets, such as churches, hospitals, or charitable, cultural, or historical facilities, are not targeted or bombarded, unless they are being used for a military purpose. If a protected place is being used by the enemy for a military purpose, such use should be documented. Hospitals being misused by the enemy should be warned, unless time does not permit and delay would jeopardize the mission. In all cases of misuse of protected places, incidental/collateral damage should be kept to a minimum.
- — Determine if war crimes trials will be conducted within the area of deployment. If trials will be held, jurisdiction over EPWs for pre-capture offenses may be established through Art. 18 or Art. 21, UCMJ. For post-capture offenses, PWs will be tried under the same rules and procedures applicable to U.S. soldiers (Art. 2, UCMJ, applies). Always check with the next higher legal office regarding war crimes trials, as the decision to prosecute has significant political implications.
- — If an occupation is anticipated, coordinate with the G-5/Civil Affairs office in order to review potential legal issues (i.e., occupation ordinances, occupation courts, etc.).
- — Be prepared to advise command on seizure & requisition of government & private property.
- — As the hostilities stabilize and the combat phase ends, coordinate with the PM and the ICRC to arrange **repatriation of PWs.**

## MOOTW OR POST-COMBAT

- — Coordinate with the G-1 and PM concerning the preparation and issuance of special ID cards in the local language. (Useful in a permissive environment for local police assistance purposes.)
- — In a permissive environment in which U.S. forces are assisting in the stabilization phase, ensure that the HN has granted authority to U.S. MPs' forces to apprehend or arrest local nationals. This will normally be accomplished through an ordinance or executive proclamation.
- — Coordinate with the judge advocate (and/or Country Civil Affairs Team) of the major theater component/supporting command to arrange HN liaison for soldiers detained by the HN. Negotiation responsibility is normally assigned to the SJA for one of the major component commands in theater. If there is a SOFA, it will usually specify the liaison authority.
- — In a permissive environment, coordinate with HN national police authorities concerning the status of the U.S. force in country. Ensure members of the HN police force understand the status of U.S. nationals.
- — As the hostilities stabilize and the combat phase ends, coordinate with the PM and the ICRC to arrange **repatriation of PWs**.

## INTERNATIONAL AND OPERATIONAL LAW REFERENCES

- All OPLAW Doctrine References listed in Chapter 2, this Handbook.
- AF Pam 110-20, Selected International Agreements.
- AR 27-14, Selected International Agreements (Vol II).
- AR 27-50/SECNAVINST 5820.4G, Status of Forces Policies, Procedures, and Information.
- AR 190-8, PW Employment.
- AR 190-41, Customs Law Enforcement.
- AR 190-XX (1996), War Trophies
- AR 350-30, Code of Conduct Training.
- DA Pam 27-1, Treaties Governing Law Warfare.
- DA Pam 27-1-1, Protocols to the Geneva Conventions of 12 Aug 1949.
- DA Pam 27-24, Selected International Agreements, Vol. II.
- DA Pam 27-161-1, The Law of Peace, Vol. I.
- DA Pam 27-161-2, International Law, Vol. II.
- DoD Dir. 2000.11, Political Asylum and Temporary Refuge
- DoD Dir. 5030.49, Customs
- FM 27-2, Your Conduct in Combat Under the Law of War (formerly TC 27-1).

- FM 27-10, The Law of Land Warfare with change 1 (if you can only take one LOW document, this is it!)
- FM 41-5, Joint Manual for Civil Affairs
- FM 41-10, Civil Affairs.
- NWP 1-14M, The Commander's Handbook on the Law of Naval Operations and Annotated Supplement.
- Manual for Courts-Martial, 1984 (1998 Edition).
- MCO 3460.1A, Training and Education Measures Necessary to Support the Code of Conduct.
- TC 27-10-1, Selected Problems in the Law of War.
- TC 27-10-2, Prisoners of War.
- TC 27-101-3, Instructor's Guide to The Law of War.
- TJAGSA Law of War Deskbook (1998).
- TJAGSA Intelligence Law Deskbook (1998).
- TJAGSA Operational Law Materials (1997).

## **CHECKLIST FOR COMPLIANCE WITH THE LAW OF WAR**

This law of war (LOW) checklist is an instructional device to demonstrate the vast range of LOW and related issues that arise during the operational staff planning process. Some of the issues raised obviously will not concern staff officers at the small unit level, others are of universal import and require close attention at all levels, and some would be considered only by the National Command Authorities. The Headquarters Marine Corps Law of War Reserve Augmentation Unit (TDE) prepared the checklist. The checklist has been prepared to assist staff officers and commanders in the development and review of operation plans (OPLANs) and concept plans (CONPLANs). Since these plans are an essential link between the Commander's decision and the initiation of military action, it is important that all plans ensure that U.S. responsibilities under domestic and international law are properly discharged. DoD Directive 5100.77 requires C JCS and the commanders of unified and specified commands to ensure that ROE conform to the LOW. CJCSI 5810.01 requires periodic review of joint documents for consistency with the LOW. Paragraphs 4(c) and 5(b) (5) of Secretary of the Navy Instruction 3300.1A require review of all plans, orders, directives and ROE for conformity with the LOW. Periodic review of operation and concept plans to assure consistency with the LOW is required by para. 10(g) of Marine Corps Order 3300.3, by para. 4(b) (2) of Chief of Naval Operations Instruction 3300.52, and by paragraphs 3(i) and 9 of AF Reg. 110-32.

This checklist assumes, without further emphasis, that all regular members of the force to be deployed (1) are equipped with the ID tags and cards required by the 1949 Geneva Conventions; and (2) have received the required accession level LOW training and the additional training required for commanders and those filling billets requiring specialized LOW training. It further assumes that all non-nuclear weapons to be employed by the force have been reviewed for compliance with the LOW in accordance with DoD Instruction 5000.1. The checklist does not cover normal military law or UCMJ questions except as they might interact with or be affected by the LOW. The Appendix has a list of the abbreviations used in the checklist with the full titles of the references spelled out. Also included in the Appendix are certain treaties and directives, which, while not referred to in this checklist, have possible LOW application to the preparation and review of OPLANs and CONPLANs. An asterisk identifies the latter documents (\*).

\_\_\_ Is Art 2 or 3 applicable to the situation?

\_\_\_ Have partners and opponents ratified Protocol I and II?

## ANNEXES

### ANNEX A - TASK ORGANIZATION

#### Appendix 1 - Time-phased force and deployment list (TPFDL).

Does the task organization include civilians or other non-military personnel accompanying the force in the field (arts. 3 and 13 of Hague IV, arts. 13 of GWS and GWS(Sea), and art. 4 of GPW)? If so:

\_\_\_ Are they equipped with the proper identification provided for such individuals (see, e.g., art. 40 of GWS, art. 4(A) (4) and Annex IV(A) of GPW, and DoD Instruction 1000.1, "ID Cards Required by the Gen. Convention")?

\_\_\_ Have they been instructed in their rights, duties and obligations under the LOW?

Does the task organization include personnel of the American Red Cross Society or other U.S. voluntary aid societies assigned exclusively to medical and medical support duties (arts. 24 and 26 of GWS)?:

\_\_\_ Are they subject to U.S. military laws and regulations?

\_\_\_ Has their intended assistance been notified to the enemy?

\_\_\_ Have they been instructed in their rights, duties and obligations under the LOW?

\_\_\_ Do they have ID cards required by art. 40 of GWS?

Does the task organization include personnel of a recognized national Red Cross society or other voluntary aid societies of a neutral country (art. 27 of GWS)? If so:

\_\_\_ Are they present with U.S. authorization and the previous consent of their own government?

\_\_\_ Are they under official U.S. control?

\_\_\_ Has their intended assistance been notified to the enemy?

\_\_\_ Have they been instructed in their rights, duties and obligations under the LOW?

\_\_\_ Have they been furnished the ID cards required by art. 40 of GWS?

Are the medical and religious personnel of the force (art. 24 of GWS) equipped with the protective identification provided for such individuals (art. 40 and Annex II of GWS and art. 42 and the Annex to GWS(Sea))? Are these personnel:

\_\_\_ Assigned exclusively to medical or religious duties or to the administration of medical or religious organizations?

\_\_\_ Trained in the special rights, duties and obligations of such personnel under the LOW?

\_\_\_ In possession of the protective ID card (and has a model of this card for such personnel been communicated to the enemy as required by art. 40 of GWS)?

\_\_\_ Are auxiliary medical personnel of the force (art. 25 of GWS) equipped with protective emblems (see art. 41 of GWS) and with military ID documents specified by that art.?

Does the task organization include personnel of the American Red Cross Society whose duties are not exclusively medical or medical support? If so:

- \_\_\_ Are they aware of the restrictions on their use of the Red Cross emblem contained in art. 44 of GWS?
- \_\_\_ Are there any theater-specific LOW training requirements or ROE for the area?

## **ANNEX B - INTELLIGENCE**

### **Appendix 1 - Essential Elements of Information**

Should the plan call for:

- \_\_\_ collection of information about enemy's policies, attitudes and practices concerning compliance with LOW?
- \_\_\_ collection of information about allied policies, attitudes and practices concerning compliance with LOW?
- \_\_\_ collection of information about enemy and allied protective emblems and insignia?
- \_\_\_ locating enemy PW camps?
- \_\_\_ locating civilian and military hospitals or other medical installations?
- \_\_\_ locating civilian concentrations, including refugee camps?
- \_\_\_ locating civilian artistic, scientific or cultural institutions within the contemplated area of operations?

### **Appendix 2 - Signals Intelligence**

- \_\_\_ Is plan consistent with the prohibition against the presence or use of cryptographic equipment aboard hospital ships supporting the U.S. forces, as required by art. 34 of GWS(Sea)?
- \_\_\_ Are signals intelligence personnel aware of the prohibition on the enemy's use of cryptographic equipment and encrypted communications on hospital ships?

### **Appendix 3 - Counterintelligence**

- \_\_\_ Is plan consistent with prohibition on assassination contained in art. 23(b) of Hague IV and para. 2.11 of Exec Order 12333? (NOTE: Lawful targets and combatants may be attacked whenever and wherever found.)
- \_\_\_ Does plan provide guidance on the processing of captured enemy agents and spies consistent with art. 29 of Hague IV and para. 75 to 78 of FM 27-10?
- \_\_\_ Does plan comply with IL concerning the arrest, detention or expulsion of HN or third country nationals (GC generally)?

### **Appendix 4 - Target List/Target Intelligence**

- \_\_\_ Are any potential targets restricted or prohibited because of an erroneous interpretation of the requirements of the LOW? If so, they should be promptly identified to the issuing authority. (NOTE: Lawful targets and combatants may be attacked whenever and wherever found.)
- \_\_\_ Is target list consistent with IL governing attack of defended places only (paragraphs 39 and 40 of, and Chg I to, FM 27-10 and arts. 25 and 26 of Hague IV)?
- \_\_\_ If plan contemplates bombardment of a defended place containing civilians, does plan provide for the appropriate (i.e., either specific or general) warning (para. 43 of FM 27-10 and art. 26 of Hague IV)?

\_\_\_ Is the target list consistent with restrictions on intentional attack of buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, hospital zones, safety zones, and places where the sick and wounded are collected (paragraphs 45 and 57 of FM 27-10 and provisions of Hague IV, Hague IX, GC, GWS, GWS(Sea), the Roerich Pact and the Hague Cultural Property Convention)?

\_\_\_ If plan contemplates the attack of any buildings or zones described in the preceding para. on the grounds that the buildings or zones are being used for military purposes, does plan require the prior authorization of a sufficiently responsible level of command?

\_\_\_ Does the target list reference or identify appropriate protective symbols (art. 27 of Hague IV, art. V of Hague IX, arts. 23 and 38 and Annex I of GWS, arts. 36, 38 and 40-44 of GWS(Sea), art. 23 of GPW, arts. 14 and 83 and Annex I of GC, arts. I and III of the Roerich Pact, and arts. 6 and 16-17 of the Hague Cultural Property Convention)?

\_\_\_ Does plan identify the requirement for warnings and the appropriate level of authorizing authority where protective emblems and areas are abused by the enemy (art. 26 of Hague IV, art. 21 of GWS, art. 34 of GWS(Sea), and art. 11 of the Hague Cultural Property Convention)?

\_\_\_ Is plan consistent with the right of self-defense where protected emblems and areas are misused against our forces?

#### **Appendix 5 - Human Source Intelligence**

\_\_\_ Has the right of members of the force to PW status if captured been considered in determining whether modifications to or elimination of their uniforms, or other ruses, will be permitted (arts. 23, 24 and 29 of Hague IV and art. 4 of GPW)?

\_\_\_ Does the plan include instructions to insure proper treatment of PWs during interrogation? In particular:

\_\_\_ Is plan consistent with the prohibitions against the killing, torture or mistreatment of PWs effective from the time of their surrender (paragraphs 28, 29, 84 and 85 of PM 27-10 and the provisions of GPW and Hague IV cited therein)?

\_\_\_ Does the plan recognize limitations on the interrogation of PWs including the requirement that they be interrogated in a language they understand (art. 17 of GPW)?

\_\_\_ Does the plan provide a procedure for inventorying and safeguarding PW personal property?

\_\_\_ Does the plan provide guidance on disposition of captured enemy armaments including limitations on the taking of souvenirs? (AR 608-4 of 28 Aug 1969, "Control and Registration of War Trophies and War Trophy Firearms." (Issued by all services as Chief of Naval Operations Instruction 3460.7A, AF Reg. 125-13 and Marine Corps Order 5800.6A).)

#### **Appendix 6 - Intelligence Support to EW, C3CM**

#### **Appendix 7 - Imagery Intelligence**

#### **Appendix 8 - Intelligence Estimate for OPSEC, PSYOPs, Military Deception Plan**

#### **Appendix 9 - Measurement and Signature Annex**

#### **Appendix 10 - Planning Guidance - Captured Enemy Equipment**

#### **ANNEX C - OPERATIONS**

#### **Appendix I - Nuclear Operations**

##### **Tab A - Nuclear Options**

##### **Tab B - Nuclear Option Analysis**

##### **Tab C - Reconnaissance Operations to Support Nuclear Options**

\_\_\_ If nuclear weapons are to be deployed with U.S. forces, will any deployment route be over or through foreign countries that prohibit or restrict such weapons?

##### **Tab D - Nuclear Fire Support Table/Target Lists.**

##### **Tab E - Nuclear Target Overlay**

### **Appendix 2 - Chemical Warfare and NBC Defense Operations**

\_\_\_ Does the plan contemplate the use of riot control agents, defoliants, chemical agents or gases of any kind? If so, is the intended use consistent with the Chemical Warfare Convention and Exec Order 11850? (also paragraphs 37 and 38 and Change 1 to FM 27-10 and art. 23(a) of Hague IV).

\_\_\_ If plan contemplates the use of any of the above, is the prior authorization of a sufficiently responsible level of command required (Exec Order 11850 and Annex F, Joint Strategic Capabilities Plan)?

\_\_\_ Is the contemplated use consistent with the provisions of the UN Environmental Modification Convention?

### **Appendix 3 - Electronic Warfare Operations**

#### **Appendix 4 - Psychological Operations**

\_\_\_ Is plan consistent with the requirement that PSYOPS efforts supporting U.S. forces comply with IL?

\_\_\_ Do such propaganda operations constitute permissible ruses of war as allowed by art. 24 of Hague IV?

\_\_\_ Is there sufficient guidance to ensure psyops efforts do not violate restrictions on coercion, compulsion, and force towards civilians in arts. 23 (h), 44 and 45 of Hague IV and arts. 27, 31 and 51 of GC?

#### **Appendix 5 - Special Operations**

\_\_\_ Does the plan contemplate clandestine operations designed to kill high ranking or key enemy officers or authorities? If so, are such plans compatible with the prohibition against assassination (para. 31 of FM 27-10, art. 23(b) of Hague IV and para. 2.11 of Exec Order 123331? (NOTE: Lawful targets and combatants may be attacked whenever and wherever found.)

\_\_\_ Does the plan require unconventional warfare personnel to conduct operations in uniform to the extent practicable in order to avoid denial of PW status if captured (art. 29 of Hague IV and art. 4 of GPW)?

### **Appendix 6 - Search and Rescue Operations**

Is the plan consistent with:

\_\_\_ the fact that search and rescue personnel and their transport do not enjoy special protection under the LOW (see, e.g., art. 27 of GWS(Sea))?

\_\_\_ the requirement to take all possible measures to search for and collect shipwrecked, wounded and sick combatants, without delay following an engagement, IAW art. 15 of GWS and art. 18 of GWS(Sea)?

\_\_\_ common art. 12 of GWS and GWS(Sea) requiring U.S. forces to care for shipwrecked, wounded and sick combatants without adverse distinction other than medical priority?

\_\_\_ the requirement that enemy wounded, sick and shipwrecked combatants who fall into the hands of U.S. forces be accorded PW status in compliance with art. 14 of GWS, arts. 14 and 16 of GWS(Sea), and art. 4 of GPW?

\_\_\_ the requirement that enemy wounded, sick and shipwrecked religious and medical personnel who fall into the hands of U.S. forces be accorded retained person status in compliance with, arts. 24, 26 and 28 of GWS and art. 33 of GPW?

### **Appendix 7 - Deception**

Is the plan consistent with:

\_\_\_ prohibition against the use of treachery/perfidy to gain advantage over the enemy (art. 23 of Hague IV)?

\_\_\_ prohibition against the improper use of a flag of truce, and misuse of the protective emblems of the GCs (art. 23(f) of Hague IV, art. 44 of GWS and art. 45 of GWS(Sea))?

\_\_\_ prohibition of art. 23(f) of Hague IV against improper use of the enemy's national flag, military insignia and uniform?

\_\_\_ Are other ruses or deceptions consistent with the LOW (see, e.g., art. 24 of Hague IV)?

\_\_\_ Does plan designate the appropriate level of command to determine whether medical installations, facilities and personnel will be protected by the protective emblem of the GCs or will rely upon camouflage and camouflage discipline (arts. 39 and 42 of GWS and art. 41 of GWS(Sea))?

#### **Appendix 8 - ROE**

\_\_\_ Do any ROE restrict the operational freedom of action of the force because of an erroneous interpretation of the requirements of the LOW? If so, they should be promptly identified to the issuing authority.

\_\_\_ Do any of the ROE erroneously make avoidance of collateral civilian casualties and/or damage to civilian objects a primary concern? Only intentional attacks of civilians and employment of weapons and tactics that cause excessive collateral civilian casualties are prohibited. Any actions taken to avoid collateral civilian casualties and damage must be consistent with mission accomplishment and force security.

\_\_\_ Do the ROE recognize the inherent right of self-defense of all persons?

\_\_\_ Is plan consistent with restrictions on unnecessary killing and the devastation, destruction, or seizure of property (paras. 3, 34, 41, 47, 56, 58, and 59 and Chg 1 to FM 27-10; Arts 27 and 56 of Hague IV and GC Art. 53)?

\_\_\_ If plan contemplates any military actions which could only be justified as reprisals, is it consistent with the requirement that reprisals may only be conducted with the approval of the National Command Authorities (para. 497 of FM 27-10 and the provisions of the GCs cited therein)?

#### **Appendix 9 - Reconnaissance**

\_\_\_ Has the right of members of the force to PW status if captured been considered in determining whether modifications to or elimination of their uniforms, or other ruses, will be permitted (arts. 23, 24 and 29 of Hague IV and art. 4 of GPW)?

#### **Appendix 10 - Operations Overlay**

##### **Appendix 11 - Concept of Operations**

\_\_\_ Does the concept of operations contain any limitations on the operational freedom of action of the force which are erroneously attributed to LOW requirements? If so, they should be promptly identified to the issuing authority.

\_\_\_ Is plan consistent with the restrictions on unnecessary killing and the devastation, destruction, or seizure of property (paragraphs 3, 41, 47, 56, 58, and 59 of FM 27-10; arts. 27 and 56 of Hague IV; and art. 53 of GC)?

\_\_\_ If reprisals are contemplated, they may only be conducted with the approval of the National Command Authorities (para. 497 of FM 27-10).

#### **Appendix 12 - Fire Support**

\_\_\_ Are fire support plans consistent with IL governing the attack of defended places only (paragraphs 39 and 40 of FM 27-10 and arts. 25 and 26 of Hague IV)?

\_\_\_ If a fire support plan contemplates the bombardment of a defended place containing a concentration of civilians, does plan provide for the giving of an appropriate (i.e., either specific or general) warning (para. 43 of FM 27-10 and art. 26 of Hague IV)?

\_\_\_ Are the fire support plans consistent with the restrictions on intentional attack of buildings dedicated to religion, art, science, or charitable purposes, historic monuments, hospitals, hospital zones, safety zones, and places where the sick and wounded are collected (paragraphs 45 and 57 of FM 27-10 and provisions of Hague IV, Hague IX, GC, GWS, GWS(Sea), the Roerich Pact and the Hague Cultural Property Convention)?

\_\_\_ If the fire support plans contemplate the attack or bombardment of any buildings or zones of the type described in the preceding para. on the grounds that the buildings or zones are being used for military purposes, do they require the prior authorization of a sufficiently responsible level of command prior to such attack or bombardment?

\_\_\_ Do the fire support plans reference or identify appropriate protective symbols (art. 27 of Hague IV, art. V of Hague IX, arts. 23 and 38 and Annex I of GWS, arts. 36, 38 and 40- 44 of GWS(Sea), art. 23 of GPW, arts. 14 and 83 and Annex I of CC, arts. I and III of the Roerich Pact, and arts. 6 and 16-17 of the Hague Cultural Property Convention)?

\_\_\_ Do the fire support plans identify the requirement for warnings and the appropriate level of authorizing authority where protective emblems and areas are abused (art. 26 of Hague IV, art. 21 of GWS, art. 34 of GWS(Sea), and art. 11 of the Hague Cultural Property Convention)?

\_\_\_ Are the fire support plans consistent with the fundamental right of self-defense in situations where protective emblems and protected areas are misused against our forces?

\_\_\_ Do maps and overlays of the AO identify targets entitled to special protection?

\_\_\_ Are hospital, safety and neutral zones, if any, identified? Are they visibly marked (art. 23 and Annex I of GWS and art. 14 and Annex I of GC)?

\_\_\_ Are special agreement hospital ship safety zones identified?

\_\_\_ Are friendly/neutral embassies, consulates and chanceries identified?

\_\_\_ Are PW and civilian internee and refugee camps identified?

\_\_\_ Are they visibly marked (art. 23 of GPW and art. 83 of GC)?

\_\_\_ Are hospitals, schools, & other civilian facilities (orphanages, retirement homes and the like) identified?

\_\_\_ Are facilities and sites such as nuclear plants, chemical plants and dams, damage to which might be dangerous to the populace, identified?

\_\_\_ Are important cultural/artistic locations identified? Are they visibly marked in accordance with art. 27 of Hague IV, art. V of Hague IX, art. III of the Roerich Pact, or art. 6 of the Hague Cultural Property Convention?

Tab A - Air Fire Plan  
Enclosure 1 - Preplanned Close Air Support  
Enclosure 2 - Air Target List  
Enclosure 3 - Air Fire Plan Target Overlay

Tab B - Artillery Fire Plan  
Enclosure 1 - Target Overlay  
Enclosure 2 - Fire Support Table (Preparation Fires)  
Enclosure 3 - Fire Support Table (Groups of Fires)

Tab C - Naval Gunfire Plan  
Enclosure 1 - Naval Gunfire Support Operations Overlay  
Enclosure 2 - Schedule of Fires  
Enclosure 3 - Naval Gunfire Reports  
Enclosure 4 - Radar Beacon Plan

Tab D - Chemical Fire Plan

\_\_\_ Does the plan contemplate the use of riot control agents, defoliants, chemical agents or gases of any kind? If so, is the intended use consistent with the Chemical Warfare Convention and Exec Order 11850? (also paragraphs 37 and 38 of, and Chg I to, FM 27-10 and art. 23(a) of Hague IV).

\_\_\_ If plan contemplates the use of any of the above, if the prior authorization of a sufficiently responsible level of command required (Exec Order 11850 and Annex F, Joint Strategic Capabilities Plan)?

\_\_\_ Is the contemplated use consistent with the provisions of the UN Environmental Modification Convention?

- (1) Enclosure 1 - Chemical Fire Support Table/Target List
- (2) Enclosure 2 - Chemical Target Overlay

Tab E - Target List  
Tab F - Fire Support Coordination Plan  
Tab G - Fire Support Communication Plan  
Tab H - Counter-mechanized Fire Plan

**Appendix 13 - Non-combatant Evacuation Operations (NEO)**

**Appendix 14 - Escape and Evasion Operations**

**Appendix 15 - Counterattack Plan Breaching Plan**

**Appendix 16 - Explosives Ordnance Disposal Plan**

**Appendix 17 - Amphibious Operations**

**ANNEX D - LOGISTICS**

\_\_\_ Will the plan support the logistics requirements for anticipated PWs, refugees and internees?

\_\_\_ If plan contemplates an occupation can it be supported logistically with respect to the requirements of the civilian population (arts. 47-78 of GC)?

**Appendix 1 - Petroleum, Oils, and Lubricants Supply**

**Appendix 2 - Mortuary Services**

\_\_\_ Does the plan provide for the collection, care, and accounting for enemy dead in accordance with arts. 16 and 17 of GWS and arts. 19 and 20 of GWS(Sea)?

\_\_\_ Is plan consistent with the limitations on cremation and the provisions regarding burial at sea of enemy dead (art. 17 of GWS and art. 20 of GWS(Sea))?

**Appendix 3 - Sustainability Operations**

**Appendix 4 - Mobility/Transportation**

\_\_\_ Is medical transport marked, at the discretion of the Commander, with the protective emblem provided for by art. 39 of GWS and art. 41 of GWS(Sea), and is their intended use restricted exclusively to medical purposes if so marked?

\_\_\_ Will the plan support the possible requirement for evacuation of PWs, civilian internees, refugees, and the sick and wounded?

\_\_\_ Have the parties to the conflict been notified of the names and descriptions of all hospital ships been at least ten days before their employment, as required by arts. 22, 24 and 25 of GWS(Sea)?

\_\_\_ Have all converted hospital ships been stripped of inappropriate armament and cryptographic equipment?

\_\_\_ Are all hospital ships, rescue craft and lifeboats marked IAW the requirements of art. 43 of GWS(Sea)?

\_\_\_ If hospital ships of the American Red Cross Society, other recognized U.S. relief societies or private U.S. citizens are employed, have they been given an official commission as required by art. 24 of GWS(Sea)?

\_\_\_ If hospital ships of a national Red Cross society, other officially recognized relief societies, or private citizens of neutral countries are employed, have they placed themselves under the control of one of the parties to the conflict as required by art. 25 of GWS(Sea)?

\_\_\_ Are crews and medical personnel of hospital ships aware of their rights, duties and obligations under arts. 29, 32 and 34-37 of GWS(Sea)?

\_\_\_ If any aircraft are to be exclusively employed for medical and medical support purposes are they marked in accordance with the provisions of art. 36 of GWS and art. 39 of GWS(Sea)?

#### **Appendix 5 - Civil Engineering Support Plan**

\_\_\_ Does the plan provide, as far as possible, for the locating of medical establishments and units in such a manner as not to imperil their safety, in accordance with art. 19 of GWS?

\_\_\_ Does the plan provide for the locating of PW camps in such a manner as not to expose them to the hazards of combat, IAW art. 23 of GPW?

\_\_\_ Is plan consistent with the possible requirement for construction of PW, internee, and civilian refugee camps?

\_\_\_ Is the barrier plan consistent with the prohibition against indiscriminate and uncharted mining?

#### **Appendix 6 - Non-nuclear Ammunition**

\_\_\_ Does the plan provide guidance on disposition of captured enemy armaments including limitations on the taking of souvenirs? (AR 608-4 of 28 Aug 1969, "Control and Registration of War Trophies and War Trophy Firearms." (Issued by all services as Chief of Naval Operations Instruction 3460.7A, AF Reg 125-13 and Marine Corps Order 5800.6A).

#### **ANNEX E - PERSONNEL**

\_\_\_ Are all members of the force subject to the UCMJ for LOW purposes?

\_\_\_ Is there a judge advocate designated to deal with the ICRC?

\_\_\_ Is a POC designated to collect evidence on war crimes?

#### **Appendix 1 - Enemy PWs, Civilian Internees, and Other Detained and Retained Persons**

\_\_\_ Does the plan designate responsibility to establish PW compounds and arrange for PW visits (by ICRC)?

\_\_\_ Is plan consistent with the provisions of AR 190-8, Enemy Prisoners of War, Civilian Internees and Detained Persons?

\_\_\_ Does plan include procedures for ascertaining whether various persons who fall into the hands of U.S. forces are entitled to treatment as PWs or retained personnel, or to be released (arts. 4 and 5 of GPW, arts. 24-32 of GWS, and arts. 36- 37 of GWS (Sea))?

\_\_\_ Is plan consistent with the requirement that where there is any doubt as to the status of a person who has committed a belligerent act and is in the hands of U.S. forces such person shall be treated as a PW until such time as his status is determined by a competent tribunal (art. 5 of GPW)?

\_\_\_ Does plan provide procedures for art. 5 (GPW) tribunals?

\_\_\_ Does the plan include appropriate instructions to insure proper treatment of PWs at the point of capture and during interrogation? In particular:

\_\_\_ Is plan consistent with the prohibitions against the killing, torture or mistreatment of PWs effective from the time of their surrender (paras. 28, 29, 84 and 85 of FM 27-10 and the provisions of GPW and Hague IV cited therein)?

\_\_\_ Does plan recognize the limitations on the interrogation of PWs, including the requirement that they be interrogated in a language they understand (art. 17 of GPW)?

\_\_\_ Does the plan provide a procedure for inventory and safeguarding PW personal property?

\_\_\_ Are procedures for the evacuation of PWs consistent with arts. 19 and 20 of GPW?

\_\_\_ Does the plan provide for furnishing ID's to PWs who possess none, consistent with art. 18 of GPW?

\_\_\_ If plan contemplates transfer of PWs to the custody of allied forces, is it consistent with the requirements of art. 12 of GPW and DoD Directive 5100.69, "DoD Program for Prisoners of War and Other Detainees"?

\_\_\_ Does the plan assign responsibility to an appropriate component command (usually Army) for the care and handling of PWs? In particular:

\_\_\_ Internment (arts. 21-24 of GPW);

\_\_\_ Quarters, food and clothing (arts. 25-28 of GPW);

\_\_\_ Hygiene and medical care (arts. 29-32 and 112-114 of GPW)

\_\_\_ Religious, educational and recreational activities (see arts. 34-38 of GPW);

\_\_\_ Labor and compensation (arts. 49-57 of GPW);

\_\_\_ Information bureaus, mail service and other communications with the exterior (arts. 69-77 of GPW);

\_\_\_ Prisoner relations (arts. 79-81 of GPW);

\_\_\_ Discipline and penal sanctions (arts. 82-108, and 115 of GPW);

\_\_\_ Release and repatriation (arts. 109-110, and 112-119 of GPW);

\_\_\_ Care of enemy wounded and sick and graves registration (arts. 109-110, 112-114, and 120-121 of GPW).

\_\_\_ Is plan consistent with arts. 79-135 concerning the treatment of civilian internees?

## **Appendix 2 - Processing of Formerly Captured, Missing or Detained U.S. Personnel**

\_\_\_ Does plan include appropriate procedures for reporting alleged war crimes and related misconduct committed by the enemy, and alleged misconduct by U.S. and allied PWs, and assign responsibility for the collection and preservation of evidence of all such matters (see, e.g., common art., 49/50/129/146 of the GCs)?

**Appendix 3 - Finance and Disbursement**  
**Appendix 4 - Legal [see Appendix for formats and sample]**

**Legal Assistance**

**Military Justice**

\_\_\_ Are all members of the force subject to the UCMJ for LOW purposes?

\_\_\_ Are units properly attached for jurisdiction?

**Claims**

**International Law Considerations**

\_\_\_ Have the various elements of plan been reviewed for LOW considerations by the appropriate staff sections and members of the executive and special staffs?

\_\_\_ Does the concept of operations contain any limitations on the operational freedom of action of the force which are erroneously attributed to LOW requirements? If so, they should be promptly identified to the issuing authority.

\_\_\_ Do any of the ROE restrict the operational freedom of action of the force because of an erroneous interpretation of the requirements of the LOW? If so, they should be promptly identified to the issuing authority.

\_\_\_ Do any of the ROE erroneously make avoidance of collateral civilian casualties and/or damage to civilian objects a primary concern? Only intentional attacks of civilians and employment of weapons and tactics that cause excessive collateral civilian casualties are prohibited. Any actions taken to avoid collateral civilian casualties and damage must be consistent with mission accomplishment and force security.

\_\_\_ Do ROE recognize the inherent right of self-defense of all persons?

\_\_\_ Have the requirements for any special LOW training, planning and equipment been met? In particular:

\_\_\_ Are civilians or other nonmilitary personnel accompanying the force equipped with the proper identification provided for such individuals (see, e.g., art. 40 of GWS, art. 4(A) (4) and Annex IV(A) of GPW, and DoD Instruction 1000 .1, "ID Cards Required by the Geneva Conventions"), and have they been instructed in their LOW rights, duties and obligations?

\_\_\_ Does the force include personnel of the American Red Cross Society or other U.S. voluntary aid societies assigned exclusively to medical and medical support duties (arts. 24 and 26 of GWS)? If so:

Are they subject to U.S. military laws and regulations?

Has their intended assistance been notified to the enemy?

Have they been instructed in their LOW rights/duties/obligations?

Have they been furnished the ID cards required by art. 40 of GWS?

\_\_\_ Does the force include personnel of a recognized national Red Cross society or other voluntary aid societies of a neutral country (art. 27 of GWS)? If so:

Are they present with U.S. authorization and the previous consent of their own government?

Are they under official U.S. control?

Has their intended assistance been notified to the enemy?

Have they been instructed in their LOW rights/duties/obligations?

Have they been furnished the ID cards required by art. 40 of GWS?

\_\_\_ Does the force include personnel of the American Red Cross Society whose duties are not exclusively medical? If so, are they aware of the restrictions on their use of the Red Cross emblem contained in art. 44 of GWS?

\_\_\_ Are the medical and religious personnel of the force equipped with the protective identification provided for such individuals (art. 40 and Annex II of GWS and art. 42 and the Annex to GWS(Sea)), and have they been trained in their special rights, duties and obligations under the LOW?

\_\_\_ Has a model of the protective ID card for such personnel been communicated to the enemy as required by art. 40 of GWS?

\_\_\_ Are there any theater-specific LOW training requirements or ROE for the area into which the force is to be deployed?

Should the plan call for:

\_\_\_ the collection of information about the enemy's policies, attitudes and practices concerning compliance with the LOW?

\_\_\_ the collection of information about allied policies, attitudes and practices concerning compliance with the LOW?

\_\_\_ the collection of information about enemy and allied protective emblems and insignia?

\_\_\_ Does plan include procedures for ascertaining whether various persons who fall into the hands of U.S. forces are entitled to treatment as PWs or retained personnel, or to be released IAW arts. 4 and 5 of GPW, arts. 24-32 of GWS, and arts. 36- 37 of GWS (Sea))?

\_\_\_ Is plan consistent with the requirement that where there is any doubt as to the status of a person who has committed a belligerent act and is in the hands of U.S. forces such person shall be treated as a PW until such time as his status is determined by a competent tribunal (art. 5 of GPW)?

\_\_\_ Does the plan provide procedures for setting up and operating an art. 5 (GPW) tribunal?

\_\_\_ Does plan include appropriate procedures for reporting alleged war crimes and related misconduct committed by the enemy, and alleged misconduct by U.S. and allied PWs, and assign responsibility for the collection and preservation of evidence of all such matters (see, e.g., common art. 49/50/129/146 of the GCs)?

\_\_\_ Is plan consistent with the serious incident reporting requirements of higher headquarters as they pertain to alleged war crimes and related misconduct?

\_\_\_ If plan contemplates an occupation, is it consistent with the obligation of an occupier to restore and preserve public order and safety while respecting, in accordance with art. 43 of Hague IV, the laws in force in that country?

\_\_\_ If plan includes draft proclamations, laws, or ordinances for use in an occupied territory, do those documents conform to the requirements of IL as set forth in arts. 42-56 of Hague IV and arts. 64-78 of the GC?

### **International Agreements and Congressional Enactments**

If plan contemplates deployment of U.S. forces into a foreign territory, the following questions should be answered:

\_\_\_ Will deployment of U.S. forces into the foreign territory be at the request of or with the consent of the lawfully constituted government? Consider arts. 2 and 51 of the UN Charter, and relevant provisions of any regional defense treaties, SOFAs, or other agreements applicable to the foreign territory involved.

\_\_\_ Will deployment of U.S. forces into the foreign territory be part of a peacekeeping mission undertaken pursuant to the UN Charter or other international agreements, including regional treaties? Consider arts. 11, 12, 14, 24, 39-49, and 52-54 of the UN Charter, and arts. 24, 25, and 43 of the OAS Charter.

\_\_\_ Is deployment of U.S. forces into the foreign territory an act of individual or collective self-defense against an armed attack, either direct or indirect?

Consider arts. 51 and 103 of the UN Charter, and any collective defense arrangements involving the foreign territory and the U.S.. Also, consider any Congressional enactment that may be applicable.

\_\_\_ Is deployment of U.S. forces into the foreign territory to protect or extract U.S. or foreign nationals? Consider the traditional theories of justifiable intervention developed under the customary and codified IL.

\_\_\_ Is deployment of U.S. forces into the foreign territory to protect or extract sensitive U.S. material or equipment such as nuclear ordnance or cryptographic material or to protect U.S. (as opposed to private installations such as embassies, consulates or military sites)?

Consider the analogy to traditional theories of justifiable intervention under customary and codified IL to protect U.S. nationals and property.

If plan contemplates the deployment of U.S. forces into foreign territory, consider whether the War Powers Resolution is applicable.

\_\_\_ Does the deployment situation clearly indicate imminent U.S. involvement in hostilities?

\_\_\_ Will the deployed forces be equipped for combat?

\_\_\_ Will the deployed forces substantially enlarge U.S. forces already located in the foreign territory?

If plan specifies certain methods and routes of deployment, the following questions should be answered:

\_\_\_ Does plan contemplate deployment routes which traverse the airspace, territory or territorial seas of any foreign country or the establishment of staging areas or bases within the foreign territory?

\_\_\_ Does an agreement exist with the foreign country which grants the U.S. such rights? If so, does the plan make reference to the agreement and is it consistent with the terms of the agreement? If such an agreement exists, does it require consultation with and the consent of the foreign country prior to exercising those rights?

If consultation and consent are required, does plan recognize the necessity of securing such consultation or consent through Defense or State Department channels prior to deployment?

If no such agreement exists, does plan recognize the necessity of securing such rights through Defense or State Department channels prior to deployment?

\_\_\_ Are planned deployment routes, staging areas, en route bases, safe havens, etc., set forth in plan consistent with applicable international agreements?

If nuclear weapons are to be deployed with U.S. forces, will any deployment route be over or through foreign countries that prohibit or restrict such weapons?

Will any staging or en route bases be established in areas recognized as demilitarized zones?

If plan contemplates deployment by sea route through territorial waters, will such passage conform to the requirements of innocent passage as set forth in arts. 1-17 and 23 of the Territorial Sea Convention?

\_\_\_ Is the foreign state a party to the Territorial Sea Convention?

\_\_\_ Do we have SOFAs with the countries U.S. forces will pass through or be deployed into? If so:

Do the agreements allow U.S. forces sufficient rights and freedom of action to carry out the mission contemplated by plan?

Do the agreements have any provisions changing the status of U.S. personnel in the event of hostilities?

Do the agreements have any provisions that are either automatically suspended or become subject to review in the event of hostilities?

\_\_\_ If we have no SOFA with a country through which U.S. forces will pass or be deployed into, or if an existing agreement is inadequate for planned mission:

Does plan recognize need to initiate through Defense or State Dept channels discussions with foreign authorities regarding appropriate arrangements governing the status of U.S. forces?

\_\_\_ Does the plan assign responsibility to an appropriate command or staff office for maintaining liaison with the U.S. diplomatic mission and local authorities on status of forces matters?

## **Appendix 5 - Military Postal Service**

### **ANNEX F - PUBLIC AFFAIRS**

\_\_\_ Is plan consistent with the serious incident reporting requirements of higher headquarters as they pertain to alleged war crimes and related misconduct (the various directives in the Appendix)?

## **Appendix 1 - Personnel Requirements Appendix 2 - Equipment Requirements**

### **ANNEX G - CIVIL AFFAIRS**

\_\_\_ Is plan consistent with the guidance contained in FM 41-5 and FM 41-10?

## **Appendix 1 - Public Safety**

\_\_\_ Does the plan provide guidance on requests for asylum and temporary refuge in accordance with DoD Directive 2000.11, "Procedures for Handling Requests for Political Asylum and Temporary Refuge"?

\_\_\_ If plan contemplates the internment of civilians, does it provide guidance on the establishment and operation of internee camps in accordance with the requirements of arts. 79-135 of GC until such time that the camps can be turned over to other agencies?

\_\_\_ If plan contemplates occupation of foreign or enemy territory by U.S. forces, does plan provide that civil affairs operations conform to IL relating to occupations as set forth in arts. 42- 56 of Hague IV and arts. 47-78 of GC?

\_\_\_ Is the plan consistent with the obligation of an occupier to restore and preserve public order and safety while respecting, in accordance with art. 43 of Hague IV, the laws in force in that country?

\_\_\_ If the plan includes draft proclamations, laws, or ordinances for use in the occupied territory, do those documents conform to requirements of IL as set forth in arts. 42-56 of Hague IV and arts. 64-78 of the GC?

\_\_\_ Is plan consistent with IL to avoid the unnecessary destruction of public utilities and safety facilities?

\_\_\_ Does plan comply with IL regarding methods of property control and does it recognize the limitations on the requisitioning, seizure and use of civilian property (see, e.g., arts. 43 and 47-56 of Hague IV and arts. 33, 53, 97 and 108 of GC)?

\_\_\_ Is plan consistent with IL in affording maximum protection to shrines, buildings, symbols, etc., associated with the religion and culture of the civilian populace?

\_\_\_ If plan contemplates the utilization of the services and labor of the civilian population, are the procedures consistent with the requirements of Hague IV and GC in addition to U.S. policy as set forth in DA Pam 690-80, Administration of Foreign Labor During Hostilities? Are they consistent with existing alliance agreements and SOFAs?

\_\_\_ Does the plan allow procedures for civilians to send and receive news of a strictly personal nature to members of their families in accordance with arts. 25 and 26 of GC?

\_\_\_ Is plan consistent with the prohibition against the improper transfer, deportation or evacuation of civilians in occupied territory contained in art. 49 of GC?

#### **Appendix 2 - Public Health and Welfare**

\_\_\_ Does plan ensure that all aspects of the civil affairs program conform to the requirements of IL, and in particular to GC, with a view to giving maximum attention to alleviating the human suffering of the civilian population?

\_\_\_ Does the plan ensure refugee collection points and routes of evacuation are consistent with scheme of maneuver and as remote as practicable from areas where combat can be expected?

\_\_\_ Does the plan allow, where tactically appropriate, for the evacuation from besieged areas of wounded, sick, infirm, young and aged civilians as set forth in art. 17 of GC?

\_\_\_ Is plan consistent with the special obligation imposed by art. 16 and other provisions of GC to give particular protection and respect to civilian wounded and sick, aged and infirm, and expectant mothers?

\_\_\_ Does plan provide that displaced persons, refugees and evacuees be treated in accordance with the requirements of IL?

\_\_\_ Does the plan comply with the protection required for civilian hospitals and staff set forth in arts. 18-20 and 57 of GC?

\_\_\_ Does plan provide for or reference draft agreements for the establishment of safety or neutral zones for civilians as permitted in art. 15 of GC?

#### **Appendix 3 - Information and Education**

\_\_\_ If plan includes draft proclamations, laws, or ordinances for use in the occupied territory, do those documents conform to the requirements of IL as set forth in arts. 42-56 of Hague IV and arts. 64-78 of the GC?

### **ANNEX H - ENVIRONMENTAL SERVICES**

\_\_\_ Are the provisions of plan for disposition of enemy dead consistent with both the LOW (art. 17 of GWS and art. 20 of GWS(Sea)) and environmental restrictions?

\_\_\_ Are the provisions of plan for disposition of captured munitions, fuels, and other toxic and dangerous substances consistent with environmental restrictions such as the UN Environmental Modification Convention?

#### **ANNEX J - COMMAND RELATIONSHIPS**

\_\_\_ Are the command relationships consistent with the concept and obligation of command responsibility under the LOW?

#### **Appendix 1 - Command Relations Diagram**

#### **ANNEX K - COMMAND, CONTROL, AND COMMUNICATIONS SYSTEMS**

##### **Appendix 1 - Communications Security**

\_\_\_ No cryptographic methods and equipment on hospital ships (art. 34 of GWS(Sea)).

\_\_\_ Does plan provide for medical aircraft to have the communications capability to respond to “every [enemy] summons to alight” during mutually agreed medevac missions as required by art. 36 of GWS and art. 39 of GWS(Sea)?

\_\_\_ Does the plan provide for the communications capability to communicate with the enemy in furtherance of the various notification, truce and local agreement provisions of the GCs and Hague IV?

#### **Appendix 2 - C3 Protection**

##### **Appendix 3 - Communications Planning**

\_\_\_ Does the plan allow for communications with the enemy for truce and local agreement purposes?

\_\_\_ If plan contemplates local agreements with the enemy for medical aircraft operations and overflights, do medical aircraft have the communications capability to respond to “every [enemy] summons to alight” required by art. 36 of GWS and art. 39 of GWS(Sea)?

#### **Appendix 4 - Defense Courier Service**

#### **ANNEX L - OPERATIONS SECURITY**

##### **Appendix 1 - Operations Security Estimate**

##### **Appendix 2 - Operations Security Measures**

\_\_\_ Should the plan call for the collection of information about allied policies, attitudes and practices concerning compliance with the LOW?

\_\_\_ Should the plan call for the collection of information about enemy and allied protective emblems and insignia?

#### **ANNEX M - MAPPING, CHARTING & GEODESY**

Do maps and overlays of the contemplated area of operations of U.S. forces identify targets that may be entitled to special protection?

\_\_\_ Are hospital, safety and neutral zones, if any, identified? Are they visibly marked (art. 23 and Annex I of GWS and art. 14 and Annex I of GC)?

\_\_\_ Are special agreement hospital ship safety zones identified?

\_\_\_ Are friendly/neutral embassies, consulates and chanceries identified?

\_\_\_ Are PW and civilian internee and refugee camps identified? Are they visibly marked (art. 23 of GPW and art. 83 of GC)?

\_\_\_ Are hospitals, schools, and civilian facilities such as orphanages, retirement homes identified?

\_\_\_ Are facilities and sites such as nuclear plants, chemical plants and dams, damage to which might be dangerous to the populace, identified?

\_\_\_ Are important cultural and artistic locations identified? Are they visibly marked in accordance with art. 27 of Hague IV, art. V of Hague IX, art. III of the Roerich Pact, or art. 6 of the Hague Cultural Property Convention?

## **ANNEX N - SPACE SYSTEMS**

### **ANNEX P - WARTIME HOST NATIONS SUPPORT**

\_\_\_ Are support agreements consistent with the provisions of DA Pam 660-80, Administration of Foreign Labor During Hostilities (1971) (NAVSO P-1910; AFM 40-8; MCO P 12190.1) and with any relevant alliance agreements, Acquisition and Cross Servicing Agreements or SOFAs? [See Chapter 16]

### **ANNEX Q - MEDICAL SERVICES**

\_\_\_ Is plan consistent with the limitations on capture or destruction of enemy medical material, stores and equipment imposed by art. 33 of GWS and art. 38 of GWS(Sea)?

\_\_\_ Is plan consistent with the qualified requirement of arts. 23 and 56 of GC for the free passage of medical and hospital stores intended only for civilians of the opponent?

\_\_\_ If plan contemplates an occupation does it provide for medical supplies for the occupied population to the fullest extent of the means available (as required by art. 55 of GC)?

\_\_\_ Is plan consistent with the limitations on requisition of medical materials and stores of an occupied population contained in art. 57 of GC?

\_\_\_ Does the plan provide, subject to the Commander's discretion, for the marking with the Red Cross of all U.S. medical vehicles, facilities and stores in accordance with arts. 39 and 42 of GWS and art. 41 of GWS(Sea), and for their use exclusively for medical purposes if so marked?

\_\_\_ Are medical personnel of the force (art. 24 of GWS) equipped with the protective emblems provided for by art. 38 of GWS and art. 41 of GWS(Sea), and with the special identification cards referenced in those conventions?

\_\_\_ Are such personnel assigned exclusively to medical duties or to the administration of medical organizations (art. 24 of GWS)?

\_\_\_ Have such personnel been trained in their special rights, duties and obligations under the LOW?

\_\_\_ Are auxiliary medical personnel (art. 25 of GWS) equipped with protective emblems provided for by art. 41 of GWS and with military ID documents specified by that art.?

\_\_\_ Does the plan reference or identify appropriate protective symbols (art. 38 of GWS and art. 41 of GWS(Sea))?

\_\_\_ Does the plan provide for a command determination as to whether medical personnel and facilities will display the protective emblem or will rely upon camouflage and camouflage discipline?

\_\_\_ Does the plan provide, subject to the Commander's discretion, for the marking with the Red Cross of all U.S. medical vehicles, facilities and stores in accordance with arts. 39 and 42 of GWS and art. 41 of GWS(Sea), and for their use exclusively for medical purposes if so marked?

\_\_\_ Does the plan provide, as far as possible, for the locating of medical establishments and units in such a manner as not to imperil their safety, in accordance with art. 19 of GWS?

\_\_\_ Have the names and descriptions of all hospital ships been notified to the parties to the conflict at least ten days before their employment as required by arts. 22, 24 and 25 of GWS(Sea)?

\_\_\_ Is plan consistent with the prohibition against cryptographic methods and equipment on hospital ships (art. 34 of GWS(Sea))?

\_\_\_ Have all vessels converted to hospital ships been stripped of inappropriate armament and cryptographic equipment?

\_\_\_ Are all hospital ships, rescue craft, and lifeboats marked IAW the requirements of art. 43 of GWS(Sea)?

\_\_\_ If hospital ships of the American Red Cross Society, other recognized U.S. relief societies or private U.S. citizens are employed, have they been given an official commission as required by art. 24 of GWS(Sea)?

\_\_\_ If hospital ships of a national Red Cross society, other officially recognized relief societies, or private citizens of neutral countries are employed, have they placed themselves under the control of one of the parties to the conflict as required by art. 25 of GWS(Sea)?

\_\_\_ Are crews and medical personnel of hospital ships aware of their rights, duties and obligations under arts. 29, 32 and 34-37 of GWS(Sea)?

\_\_\_ If any aircraft are to be exclusively employed for medical and medical support purposes are they marked in accordance with the provisions of art. 36 of GWS and art. 39 of GWS(Sea)?

\_\_\_ Is plan consistent with the fact that search and rescue personnel and their transport do not enjoy special protection under the LOW (see, e.g., art. 27 of GWS(Sea))?

\_\_\_ Does the plan contemplate local agreements with the enemy for medical aircraft operations and overflights (art. 36 of GWS and art. 39 of GWS(Sea))?

\_\_\_ If so, do medical aircraft have the communications capability to respond to "every [enemy] summons to alight" required by art. 36 of GWS and art. 39 of GWS(Sea)?

\_\_\_ Is plan consistent with the requirement to take all possible measures to search for and collect shipwrecked, wounded and sick combatants, without delay following an engagement, in accordance with art. 15 of GWS and art. 18 of GWS(Sea)?

\_\_\_ Is plan consistent with common art. 12 of GWS and GWS(Sea) requiring U.S. forces to care for shipwrecked, wounded and sick combatants without adverse distinction other than medical priority?

\_\_\_ Is plan consistent with the requirement that enemy wounded, sick and shipwrecked combatants who fall into the hands of U.S. forces be accorded PW status in compliance with art. 14 of GWS and arts. 14 and 16 of GWS(Sea)?

\_\_\_ Is plan consistent with the requirement that enemy wounded, sick and shipwrecked religious and medical personnel who fall into the hands of U.S. forces be accorded retained person status in compliance with arts. 24, 26 and 28 of GWS?

\_\_\_ Does the plan provide for the care of enemy wounded and sick and graves registration (arts. 109-110, 112-114 and 120-121, GPW).

\_\_\_ Is plan consistent with the limitations on capture or destruction of enemy medical material, stores and equipment imposed by art. 33 of GWS and art. 38 of GWS(Sea)?

\_\_\_ Is plan consistent with the special obligation imposed by art. 16 of GC to give particular protection and respect to civilian wounded and sick, aged and infirm, and expectant mothers?

\_\_\_ Is plan consistent with the qualified requirement of arts. 23 and 56 of GC for the free passage of medical and hospital stores intended only for civilians of the opponent?

\_\_\_ If plan contemplates an occupation does it provide for medical supplies for the occupied population to the fullest extent of the means available (as required by art. 55 of GC)?

\_\_\_ Does the plan recognize the limitations on requisition of medical material and stores of an occupied population?

\_\_\_ Are the provisions of plan for disposition of enemy dead consistent with both the LOW (art. 17 of GWS and art. 20 of GWS(Sea)) and environmental restrictions?

#### **ANNEX R - CHAPLAIN SERVICES**

## INTERNATIONAL AGREEMENTS REVIEW CHECKLIST

1. Agreement being reviewed:

a. Title: \_\_\_\_\_  
\_\_\_\_\_

(Is this title accurately descriptive of the substance of the agreement?)

b. Parties: \_\_\_\_\_  
\_\_\_\_\_

c. Type of Agreement: \_\_\_\_\_

d. Purpose: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

e. Is there already another agreement covering this subject? Check TIAS and other resources for redundancy.

2. Procedural authority for negotiation.

a. Approval authority (Does the agreement have “policy significance?”): \_\_\_\_\_

b. Do you have written documentation of authority to negotiate?

c. How designated: \_\_\_\_\_

d. Negotiator: \_\_\_\_\_

e. Should there be terms of reference or other written guidance for the negotiator?

f. Is there a need to limit the negotiator’s authority, *e.g.*, should agreements reached at the table be *ad referendum* only?

g. Does the person representing the other party appear to have proper authority?

3. Substantive authority.

a. Enumerate each commitment or responsibility the U.S. will assume under the agreement. Look especially for:

(1) Security commitments.

(2) Obligations that cost money.

(3) Obligations that impact on operational flexibility.

(4) Provisions affecting the privileges, immunities, responsibilities and quality of life of U.S. personnel.

b. For each commitment or obligation, articulate a corresponding legal authority, *e.g.*:

- (1) U.S. Constitution.
  - (2) Statute.
  - (3) Regulation.
  - (4) Existing treaty or other international agreement.
4. Substance of the agreement.
  - a. Is there language signifying the intent of the parties to be bound under international law?
  - b. Does the agreement purport to subject the force, as an instrumentality of the U.S. Government, to the jurisdiction of the receiving state?
  - c. If under the agreement U.S. personnel will be present in foreign territory, is there adequate provision for their status?
  - d. Does the agreement provide for immunity from taxation by the receiving state for U.S. activities, including contracting and acquisition of goods and services, and import/export of materials?
  - e. If facilities will be built under the agreement, is there provision for meeting U.S. standards/specifications?
  - f. If construction or improvement of facilities is funded by the U.S., is there provision for recouping their residual value upon turnover to the host nation?
5. Fiscal matters.
  - a. Has a funding source been identified?
  - b. Have funds been budgeted (check out-years) to support all commitments or obligations under the agreement? In the alternative, is there an indication that the budgeting of funds will be requested?
  - c. Specify budget category data and estimated cost of performance in current/out years.
  - d. Are planned expenditures consistent with the purpose for which the funds were appropriated?
  - e. Are any planned expenditures inconsistent with fiscal policies?
  - f. Does the agreement have a fund availability qualification? If not, has an Obligation been created improperly?
  - g. Have pertinent agreements concerning claims, security, reciprocal medical care, or reciprocal procurement/logistics been factored into the agreement and, if necessary, incorporated by reference? If yes, list related supporting agreements.
  - h. If the agreement provides for reimbursement to the U.S., is there authorization for deposit in a specific account, or does it go into miscellaneous receipts?
6. Security review.
  - a. Is the agreement properly classified for its substantive content?
  - b. Has the J2 chopped on the draft agreement?
  - c. Will classified military information pass from the U.S. to the other party to the agreement?

- d. Is there a General Security of Information Agreement with the other prospective party?
- e. Even if unclassified, is information susceptible to transfer such that a Technology Assessment/Control Plan is required?
- f. Are there provisions in the agreement to safeguard against the unauthorized dissemination of classified information?
- g. Does the agreement or any of the information it covers implicate National Disclosure Policy?
- h. Does any classified information concern special category information, *e.g.*, “sensitive” technology?
- i. Will the agreement result in foreign visitors or liaison officers?

7. Signature page.

- a. Are the signers properly identified:

(1) By name: \_\_\_\_\_

(2) By title: \_\_\_\_\_

(3) By position: \_\_\_\_\_

(NOTE: This information is frequently left blank until the day of actual signing, then all that is written in are the signatures. Names should be typed to ensure legibility, and the signers should be properly identified. “For the United States of America” is not descriptive of the position of the person signing the agreement and does little to suggest his authority.)

- b. Is there a place for dating the agreement?
- c. Is the date of entry into force (effective date) indicated? \_\_\_\_\_
- d. Is there a statement regarding the language of the agreement?
- e. If there is a version in any language other than English, is there a certificate that they are substantially the same by a qualified U.S. linguist?

8. Miscellaneous.

Is there an indication that the office or command responsible for concluding the agreement is aware of the reporting requirements of the Case Act (1 U.S.C. § 112) and enclosure (6) to DoD Directive 5530.3?

## CONTRACT AND FISCAL LAW

### PREPARATION AND PREDEPLOYMENT

- \_\_\_ Review legal studies and materials dealing with the area of operations (AO).
- \_\_\_ The judge advocate should assist the G-4 in obtaining extended purchase authority, LAW AR 37-21, up to the limit of 10 U.S.C. § 2304 for Ordering Officers and Class A Agents, down to battalion level, if necessary; develop guidance for the use of operations funds; and assist the Class A Agents in distributing such funds.
- \_\_\_ In the absence of an established organization in the Area of Operations (AO) (i.e., one with contracting officers, civil affairs personnel, and a full complement of combat service support), at what level will CDRs be authorized to contract for necessary supplies and services? This warrant must be obtained from the Head of the Contracting Activity (e.g. CDR, FORSCOM; CDR, Eighth Army, etc.).
- \_\_\_ The probable need to ratify irregular acquisitions, (i.e., those made by individuals not authorized to commit the U.S.). See AR 37-107, para. 5-25; and applicable sections of the Federal Acquisition Regulations (FARS), DoD Acquisition Regulations (DFARS) and Army Acquisition Regulations (AFARS).
- \_\_\_ What kinds of funds will be available for acquisition of supplies and services in the AO, and what controls will be placed on the expenditure or obligation of these funds?
- \_\_\_ How is the furnishing of goods and supplies by the U.S. forces to allied forces to be accomplished.
- \_\_\_ Review OPLAN/OPORDER to see if overseas procurement will be necessary.

### WHILE DEPLOYED

- \_\_\_ Establish immediate contact with the contracting officer and civil affairs element which identity and coordinate acquisition of locally available materials and services.
- \_\_\_ Provide legal advice and other assistance, as required, on all contract and fiscal law matters.
- \_\_\_ When procuring legal property by requisition or seizure (as opposed to contracting), ensure that receipts describing the items seized, the location, the owner, and the custodian are prepared.
- \_\_\_ Coordinate real estate arrangements in the area of operations with engineers accompanying the force. (See AR 405-15).
- \_\_\_ Ensure that minor and emergency construction comply with applicable law & regulation. (See AR 415-35).
- \_\_\_ To the extent possible, accompany contracting personnel dealing with the local populace.

### CONTRACT LAW REFERENCES

- Federal Acquisition Regulation (FAR).
- DoD Federal Acquisition Regulation Supplement (DFARS).
- Department of Army Federal Acquisition Regulation Supplement (AFARS).
- AR 37-20, Administrative Control of Appropriated Funds.

- AR 37-21, Commitments and Obligations.
- AR 37-103-1, Imprest Funds.
- AR 37-107, Processing and Payment of Commercial Accounts.
- AR 405-15, Real Estate Claims Founded Upon Contract.
- AR 415-35, Minor Construction, Emergency Construction, and Replacement of Facilities Damaged or Destroyed.
- DA Pam 27-153, Procurement Law.
- DA Pam 715-xx, Contingency Contracting
- DA Pam 690-80, Use and Administration of Local Civilians in Foreign Areas During Hostilities.
- TM 5-300, Real Estate Operations in Overseas Command.
- Forms: SF 44 Vouchers, DD 1155 Vouchers

## MILITARY JUSTICE (CRIMINAL LAW)

### PREPARATION AND PREDEPLOYMENT

- \_\_\_ Ensure all deploying soldiers are assigned or attached to a deploying unit for UCMJ (jurisdiction) purposes.
- \_\_\_ Plan for the exercise of criminal and administrative jurisdiction over personnel left behind. Ensure all rear detachment personnel are assigned or attached to a follow-on unit for UCMJ (jurisdiction) purposes.
- \_\_\_ Determine if a SOFA exists or arrangements have been made for exclusive jurisdiction over U.S. personnel (Military? Civilians/contractors?). If there is a SOFA, is it expressly applicable during hostilities?

### WHILE DEPLOYED

Plan for continued military justice operations. Depending on the anticipated duration, consider the following:

- \_\_\_ Ensure that, if Art. 32 investigations and courts-martial will be conducted during the deployment, courtroom facilities have been located and equipped.
- \_\_\_ Should a military judge deploy to try cases at the location?
- \_\_\_ Have the Trial Judiciary and Circuit Chief Judge been notified?
- \_\_\_ How will Art. 32 investigations be conducted at location of deployment?
- \_\_\_ How will pretrial confinement be established?
- \_\_\_ How will summary court officers be drawn? (line officers, staff officers, or judge advocates).
- \_\_\_ Will prisoners serving sentences locally be released to deploy with their units?
- \_\_\_ Ensure deployed judge advocates have access to an interpreter for interviews and/or depositions of local witnesses. The Claims judge advocate interpreter may be able to serve this function.
- \_\_\_ Ensure that, if cases are to be tried during the duration of the deployment, the pool of officers and enlisted members for court-martial panels contains only deploying personnel.
- \_\_\_ Ensure personnel are briefed concerning conditions on liberty in their deployment area.
- \_\_\_ Coordinate with communications, transportation, and aviation elements to establish contact and courier service with the rear detachment.
- \_\_\_ Ensure that, where necessary, testimony of local witnesses is preserved by deposition. A deployed court reporter and interpreter may be used for this purpose. The country law study or local legal agencies should be consulted to determine whether the HN laws place restrictions on local nationals giving depositions (particularly if they are local officials).
- \_\_\_ Coordinate with the PM to determine whether: Evidence-handling procedures are adequate. Pretrial confinement facilities, if any, have been established.
- \_\_\_ Make periodic visits to forward units to meet with CDRs, witnesses, and, in the case of deployed defense counsel, suspects and accused.

- — If it is a short-term deployment, ensure that, if nonjudicial punishment is to be administered during the deployment, the attendant paperwork is forwarded by courier to the rear detachment for processing.
- — Ensure that allegations of law of war violations are thoroughly investigated and that evidence has been preserved.
- — Ensure that orders assigning or attaching soldiers to other than their original units for UCMJ purposes are revoked upon deployment.
- — If, in an area where a SOFA is applicable, ensure that a waiver of **jurisdiction** is obtained prior to redeployment of an accused.

## REFERENCES

- Manual for Courts-Martial, current edition.
- AR 15-6, Procedures for Investigating Officers and Boards of Officers.
- AR 27-10, Military Justice, with local supplements (if any).
- AR 27-26, Rules of Professional Conduct.
- AR 27-50, Status of Forces Policies, Procedures, and Information.
- AR 135-178, Guard and Reserve Enlisted Separations.
- AR 190-30, Military Police Investigations.
- AR 190-34, Correctional Custody.
- AR 190-41, Customs Law Enforcement.
- AR 190-47, U.S. Army Correctional System.
- AR 195-2, Army Criminal Investigation Program.
- AR 195-5, Evidence Procedures.
- AR 600-8-2, Suspension of Favorable Actions
- AR 600-8-19, Enlisted Promotions and Reductions
- AR 600-8-24, Officer Transfers and Reductions
- AR 600-37, Unfavorable Information (for GOMORs)
- Enlisted Ranks Update 16
- DA Pam 27-7, Summary Court-Martial Guide
- DA Pam 27-10, Judge's Benchbook
- DA Pam 27-17, Procedural Guide for Article 32(b) Investigations

- DA Pam 27-173, Trial Procedures
- FM 27-1, Legal Guide for Commanders
- Combat Law Library, to include references A-K, DA Pam 27-9 (Military Judges, Benchbook, DA Pam 27-10 Trial Counsel and Defense Counsel , and the Military Justice Digest.

#### **FORMS.**

- DD Form 457, Investigating Officer's Report
- DD Form 458, Charge Sheet
- DD Form 497, Confinement Order
- DA Form 2627, Report of Proceedings Under Art. 15, UCMJ
- DA Form 2627-1, Summarized Record of Proceedings Under Art. 15, UCMJ
- DA Form 2823, Sworn Statement (100 each).
- DA Form 3169-R, Report of Judicial and Disciplinary Activity in the Army
- DA Form 3881, Rights Warning
- DA Form 4430-R, Report of Results of Trial
- DA Form 4916-R, Certificate of Service/Attempted Service
- DA Form 4917-R, Advice as to Appellate Rights
- DA Form 5110-R, Art. 15 Reconciliation Log
- DA Form 5111-R, Summary Court-Martial Rights Notification/ Waiver Statement
- DA Form 5112-R, Checklist for Pre-Trial Confinement
- Pay Chart
- Punishment Worksheets for Article 15s
- SFs 1156, 1157, Witness Payment Forms
- Local Forms, Form Letters, Disposition Forms Forwarding Charges, Referring Cases to Trial, etc.